son, 56 Ark. 324. Moreover, it cannot be doubted that the state may by statute extend the privilege of suing to foreign executors, but whether it can destroy the immunity from suit where there are no local assets, and without the consent of the state granting the letters, is easily distinguishable upon principle. In one case, however, this distinction was ignored and a suit against a foreign executor was sustained. *Cady* v. *Bard,* 21 Kan. 667; but the court cites no authorities to sustain its decision. In *Thorburn* v. *Gates,* 225 Fed. 613, the Federal Court was called upon to construe the same statute involved in the principal case, and to avoid holding a part of the statute unconstitutional limited the operation of that part of the statute abridging the immunity of foreign executors from suit to those cases where the law of the state appointing the executor authorized a foreign action. In a note to that case in 29 HARV. L. REV. 442, the opinion was asserted that this was a strained construction and that a more reasonable interpretation would limit the operation of the statute to cases where there were local assets. This view is adopted in the principal case. For an exhaustive compilation of authorities on the general subject, see 27 L. R. A. 101.

HEPBURN ACT—COMMODITIES CLAUSE—HOLDING COMPANY.—A holding company acquired all the stock of a coal mining company and all the stock of the railroad company whose road extended from the mine fields of the coal company to the market. The organization and operation of the holding and each subsidiary company was kept entirely separate, but all three had the same officers and directors. In an action by the government for dissolution under the act of June 29, 1906, making it unlawful for any railroad company to transport in interstate commerce any commodity produced or mined by it, or under its authority or in which it may have an interest direct or indirect, except such commodities as are used by it; *held,* the coal is mined and transported under the same *authority* in violation of the act. *United States* v. *Reading Co.* (1920), 40 Sup. Ct. 425.

The decision represents another victory for reality, in applying the act, over the fiction of corporate entity; and puts into discard one more scheme to consolidate the ultimate control over production and transportation of a commodity and yet not violate the act. In *United States* v. *Delaware & Hudson Co.,* 213 U. S. 366, it was held that the interest, direct or indirect, in the commodity was limited to the legal or equitable meaning, and did not include articles or commodities produced by a *bona fide corporation* in which the railroad company is a stockholder. But in *United States* v. *Lehigh Valley Railroad Co.,* 220 U. S. 257, the court held that where the railroad company owned all the stock of the mining company and reduced it to a mere department, the mining company would not be considered *bona fide,* and the act was therefore not avoided by the theory of separate entity. Later a railroad company owning mines attempted to circumvent the act by organizing a sales company, the stock of which was issued to the railroad shareholders in lieu of dividends. The sales company contracted for the output of the mines and became the legal owner of the coal transported over the

railroad. But because by the contract the railroad company limited the freedom of the sales company in buying coal and in other matters, it was held the contract was not *bona fide* and was merely a means by which the railroad though parting with the legal title retained an interest and control in what had been sold. *United States* v. *Delaware, Lackawana & Western Railroad Co.*, 238 U. S. 516. See also 14 MICH. L. REV. 49. In a later case, *Chicago, Milwaukee & St. Paul Ry. Co.* v. *Minneapolis Civic Association*, 247 U. S. 490, in which also the separate entity of a corporation used as a mere agency of carriers was held to be of no avail, the court declared that statements made in former decisions to the effect that ownership alone of capital stock in one corporation by another does not create an identity of interest, cannot be relied upon where the ownership is resorted to not for the purpose of participating in the affairs of a corporation in the normal and usual manner, but to create a mere agency or instrumentality of the owning company. It thus appears that the court has adopted by this line of decisions *bona fide intentions* as the touchstone to distinguish the existence or not of separate corporate entities. And if the railroads do not succeed in devising means to sell and also keep their great mining interests so as to satisfy the commodities clause of the Interstate Commerce Act, it may be they can do so only by a *bona fide* sale of all mining interests, and limit themselves to carrying. The property involved is very large and the problem is not simple.

INDIANS—INDIAN ALLOTTEE ACQUIRES FULL EQUITABLE ESTATE.—An Act of Congress provided that allotments and trust patents be granted to Indians with a further provision that the whole legal estate would be granted at the end of twenty-five years to the allottee or his heirs, and that all such conveyances shall be subject to the approval of the Secretary of the Interior, and when so approved shall convey a full title to the grantee. A's grantor, who was not the heir of the allottee received a patent approved by the Secretary of the Interior. *Held* (Gates, J., dissenting), A took no title as against the lawful heirs of the allottee. *Highrock* v. *Gavin* (S. D., 1920), 179 N. W. 12.

This decision overrules the recent case of *Dougherty* v. *McFarland*, 40 S. D. 1 (1918), decided by the same court, and where it was held that an allotment was only a trust not binding on Congress, and that a conveyance approved by the Secretary of the Interior operated to convey the whole estate in fee simple. In the principal case the majority of the court had changed their view as to the legal effect of an allotment under the Act of Congress, and decided that the allotment conveyed the whole equitable title to the allottee, of which he could not be divested without his consent. The character of the estate of the allottee under different treaties and Acts of Congress has been variously stated by the courts. In *Hallowell* v. *Commons*, 210 Fed. 793, it was said that the full equitable title passed to the Indian under a similar provision. In *United States* v. *Chase*, 245 U. S. 89, the relation between the government and allottee was in issue, and the Supreme Court decided that an allotment did no more "than to individualize the exist-